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REPORT OF THE SECRETARY-GENERAL ON THE SITUATION CONCERNING WESTERN SAHARA

I. INTRODUCTION

1. The present report is submitted pursuant to Security Council resolution 1198 (1998) of 18 September 1998, by which the Council extended the mandate of the United Nations Mission for the Referendum in Western Sahara (MINURSO) until 31 October 1998. The Council also requested me to report to it on the progress of the implementation of the Settlement Plan for Western Sahara (S/21360 and S/22464 and Corr.1) and the agreements reached between the parties, the Kingdom of Morocco and the Frente Popular para la Liberación de Saguía el-Hamra y del Río de Oro (Frente POLISARIO), under the auspices of my Personal Envoy, Mr. James A. Baker III (S/1997/742, annexes I-III). The present report covers developments since my previous report to the Council, dated 11 September 1998 (S/1998/849).

II. DEVELOPMENTS DURING THE REPORTING PERIOD

A. Consultations and measures intended to overcome current obstacles

2. Over the reporting period, not having received from either party any specific proposal to reconcile their viewpoints on the much debated issue of tribal groupings H41, H61 and J51/52, my Special Representative, Mr. Charles F. Dunbar, continued to seek ways of breaking the deadlock. My Personal Envoy also pursued his contacts with the parties to this end.

3. In this context, on the occasion of a visit on 23 September to Laayoune, the Moroccan Minister of the Interior, Mr. Driss Basri, informed my Special Representative of the firm intention of his Government to move ahead as quickly as possible towards a referendum. In particular, the Minister reaffirmed Morocco's commitment to facilitate the return of Saharan refugees and to assist the Office of the United Nations High Commissioner for Refugees (UNHCR) in that regard. Likewise, in consultations held at Headquarters in September, the Frente POLISARIO reiterated the fundamental importance which it attaches to the referendum process as set out in the Settlement Plan and the Houston agreements.

4. Further to these consultations and to his own contacts with the parties, I accepted my Special Envoy's recommendation to resume without delay identification of those applicants from tribal groupings H41, H61 and J51/52 who wish to present themselves individually, and at the same time to begin the appeals process, as the best means of moving forward in the implementation of the Settlement Plan. I therefore asked the Under-Secretary-General for Peacekeeping Operations, Mr. Bernard Miyet, my Special Representative and the Chairman of the Identification Commission, Mr. Robin Kinloch, to travel to Rabat and Tindouf to submit to the parties a set of measures intended to overcome current obstacles, so as to make decisive progress in the organization of the referendum provided for under the Settlement Plan. During its mission, from 17 to 24 October, the United Nations delegation submitted various documents to the Moroccan Government and to the Frente POLISARIO containing, inter alia, protocols on the identification of those applicants from tribal groupings H41, H61 and J51/52 wishing to present themselves individually and on the appeals process, a memorandum on UNHCR activities, and an outline of the next stages of the Settlement Plan. A protocol on the repatriation of refugees will be submitted to the two parties, and to the Algerian and Mauritanian authorities, in the next few days. The United Nations delegation also travelled to Algiers and Nouakchott to seek the views of the Algerian and Moroccan authorities and to obtain their support.

5. As proposed to the parties, their final agreement to the above protocols would need to be obtained by mid-November 1998, so that UNHCR can proceed immediately to prepare to receive refugees in the Territory and so that identification of those applicants from tribal groupings H41, H61 and J51/52 wishing to present themselves individually, as well as the appeals process, can begin on 1 December 1998, the date scheduled for publication of the provisional list of voters other than those in the three groupings. In accordance with the outline of the next stages of the Settlement Plan, the appeals process for applicants from tribes other than these three groupings could conclude in March 1999, and identification of applicants from these three groupings could be concluded in April 1999. The identification and appeals processes thus envisaged would require the gradual addition of seven further members to the Identification Commission, as indicated in paragraph 19 below. Accordingly, and from the viewpoint of beginning the transition period in June-July 1999, if the referendum is to be held in December 1999 it will be important to undertake full deployment by MINURSO effective 1 January 1999.

B. Military aspects

6. As at 22 October 1998, the strength of the military component of MINURSO stood at 442 observers and other military personnel (see annex). Under the command of Major General Bernd S. Lubenik (Austria), the MINURSO military component continues to monitor the ceasefire between the Royal Moroccan Army and the Frente POLISARIO Forces, which came into effect on 6 September 1991. The Moroccan armed forces continued to abide by the provisions of the military agreement between MINURSO and Morocco of 23 July 1998, and to provide recovery, transportation and logistical support to the Mission's formed military units when needed, and also exchanged with them information on mines and unexploded

ordnance. The MINURSO area of responsibility remains calm, and there has been no indication that either side intends to resume hostilities.

7. During the reporting period, the MINURSO mine-clearance unit from Sweden completed the demining of those areas needed for the future deployment of civilian and military personnel. The unit was repatriated on 20 October, with the exception of one Swedish staff officer who will remain with the Mission until 21 November 1998, to assist in the operation of the MINURSO mine action centre. As indicated in my previous report (S/1998/849), arrangements will have to be made in due course to complete the demining tasks related to the repatriation programme.

8. With its construction work for logistical and accommodation purposes nearly completed at Dakhla, the engineering support unit from Pakistan is now focusing its efforts on the establishment of the forward logistical base at Awsard and on the refurbishment of subsector commands east of the defensive sand wall (berm). The unit's operational capabilities remain constrained, however, as its communication equipment has yet to be released by the Moroccan authorities from Laayoune airport, despite the earlier assurances from the Minister of the Interior that the matter would be resolved. The requirement to maintain the engineering support unit at its current strength is being reviewed and adjustments may be made once the unit has completed its current tasks.

9. During the reporting period, the Secretariat submitted to Algeria and Mauritania copies of the final version of the status-of-forces agreement on MINURSO, with a view to having the agreement signed as soon as possible. The Secretariat also replied to the observations made by the Moroccan authorities on the draft agreement, and is now awaiting their response.

C. Civilian police aspects

10. The current strength of the civilian police component of MINURSO stands at 81 police officers, including the Police Commissioner, Chief Superintendent Peter Miller (Canada). The component has completed the greater part of its mandate of assisting the Identification Commission, and continues to work with UNHCR in the planning process for the repatriation of refugees.

D. Preparatory work for the repatriation of Saharan refugees

11. The Office of the United Nations High Commissioner for Refugees, in close consultation and coordination with my Special Representative and various components of MINURSO, continued its preparatory work for the repatriation operation in the two asylum countries, Algeria and Mauritania, and in the Territory of Western Sahara, east of the berm. The third and final road reconnaissance in the Agwanit area of the Territory, east of the berm, was completed and the information on the repatriation routes and sites was provided to MINURSO for demining purposes. Further studies were conducted by UNHCR and its implementing partners in the Agwanit and Tifariti areas, using satellite imagery, in order to finalize proposals for a water development project.

12. Following the visit of the Moroccan Minister of the Interior to Laayoune in September 1998 and the assurances he gave to my Special Representative that UNHCR would be able to undertake its preparatory work, UNHCR informed the Moroccan authorities of its readiness to deploy a mission to Morocco and the Territory, west of the berm, to commence its activities, including confidence-building, infrastructure development and road reconnaissance, with a view to completing its preparatory work and planning as indicated in my previous reports. At the request of the Moroccan authorities, this mission is on standby for deployment, pending their confirmation that Moroccan technical counterparts have been appointed to undertake a joint mission to the Territory.

13. The Office of the United Nations High Commissioner for Refugees had prepared to resume the pre-registration exercise in the Tindouf camps in Algeria on 3 October 1998 and, accordingly, to hold early discussions with the refugees, the camp leaders, the sheikhs and the notables. The pre-registration was not resumed as planned, however, since the camp authorities and the refugees were reluctant to cooperate with UNHCR without instructions from the Frente POLISARIO. In its recent discussions with UNHCR, the Frente POLISARIO sought and received clarification on a number of issues relating to the UNHCR preparatory work before agreeing to the resumption of pre-registration in the camps. UNHCR now expects to resume this important exercise before the end of October.

14. The Office of the United Nations High Commissioner for Refugees has recently designated a senior official to coordinate its preparatory activities in the western part of the Territory. The UNHCR official will arrive in Laayoune once UNHCR can be effectively present in the Territory and its ability to carry out essential preparatory activities is confirmed.

III. FINANCIAL ASPECTS

15. As indicated in paragraph 17 of my previous report (S/1998/849), the General Assembly, by its resolution 52/228 B of 26 June 1998, appropriated an initial amount of $21.6 million gross, equivalent to a monthly rate of $5.4 million gross, for the period from 1 July to 31 October 1998. The General Assembly is scheduled to take action before the end of October 1998 on the appropriation of the additional amount of $37.3 million gross for the operation of MINURSO for the period from 1 July 1998 to 30 June 1999, equivalent to a monthly rate of $4.7 million gross for the period from 1 November 1998 to 30 June 1999. Therefore, should the Council decide to extend the mandate of MINURSO, as recommended in paragraph 22 below, the cost of maintaining the Mission during the extension period would be limited to the monthly rate approved by the General Assembly.

16. As at 23 October 1998, unpaid assessed contributions to the special account for MINURSO for the period since inception of the Mission to 21 September 1998 amounted to $55 million. The total outstanding assessed contributions for all peacekeeping operations as at 23 October 1998 was $1,646.6 million.

IV. OBSERVATIONS AND RECOMMENDATIONS

17. Since the current deadlock is due primarily to the inability of the Moroccan Government and the Frente POLISARIO to reach a compromise on the much debated issue of tribal groupings H41, H61 and J51/52, I have decided to present my own arbitration in order to move ahead on this issue. The proposals that I am making are fully in keeping with the provisions of the Settlement Plan, including paragraph 20 of the Secretary-General's report of 19 April 1991 (S/22464), which stipulates that:

> "The Commission's mandate to update the 1974 census will include (a) removing from the lists the names of persons who have since died and (b) considering applications from persons who claim the right to participate in the referendum on the grounds that they are Western Saharans and were omitted from the 1974 census."

It is, moreover, in this spirit that, in his letters of 28 March 1998 to the two parties, my Special Representative stated that the United Nations was adhering to the principle that any registered applicant from any tribal grouping who meets any of the identification criteria is entitled to have his or her name included in the list of voters.

18. In order to avoid taking an arbitrary decision which might lead to the exclusion of persons who are eligible to vote, having regard to respect for that democratic principle, I see no other alternative than to ask the Identification Commission to proceed now to consider requests from any applicants from the tribal groupings in question who wish to present themselves individually, in order to verify whether they have the right to vote, having regard to the five eligibility criteria accepted by the parties. Naturally, the parties will have to adhere strictly to the conditions under which this review is to be implemented, as provided for in the Houston agreements and specifically in annex I to my report of 24 September 1997 (S/1197/742), which stipulates that: "The parties agree that they will not directly or indirectly sponsor or present for identification anyone" from these tribal groupings, although the parties will not be obligated to actively prevent individuals from such tribal groupings from presenting themselves. Furthermore, in order to avoid any subsequent dispute, members of the Identification Commission will have to continue examining applications with the utmost rigour and impartiality.

19. Embarking on this supplementary identification operation will prolong the Identification Commission's programme of work. Accordingly, it seems to me advisable to launch the phase of the appeals process simultaneously so as not to postpone the referendum too long; this is in keeping with the wishes publicly expressed by the two parties. It will therefore be necessary to publish by 1 December 1998 the provisional list of voters resulting from the work of the Identification Commission on tribes other than tribal groupings H41, H61 and J51/32, so as to begin on that date the appeals process concerning tribes which have already been identified. Since the implementation of such a programme makes it essential to strengthen the Identification Commission, I am proposing to the Security Council that the number of the Commission's members be gradually increased from 18 to 25, and that the necessary support personnel also be increased, so as to keep to the proposed timetable.

20. The holding of the referendum will also depend on the measures taken in anticipation of the return of refugees who have been declared eligible to vote, together with their immediate family members, and the conditions in which that repatriation takes place. To this end, it is important that the Moroccan Government, the Frente POLISARIO and the Algerian and Mauritanian Governments should grant the United Nations, particularly UNHCR, as soon as possible all necessary facilities and guarantees to enable them to prepare for the refugees' return in an optimum manner. In that connection, the presence and establishment of UNHCR in the Territory must be formalized in the very near future. That is a major requirement if we wish to create a real climate of confidence among the refugees and to establish the means and facilities necessary for their future reception in the Territory.

21. The proposals that I am submitting to the Security Council for consideration involve adjusting the timetable presented in annex II to my report of 13 November 1997 (S/1997/882). I would add, however, that strict adherence to the new deadlines indicated in paragraphs 5 and 19 above can be ensured only if the parties cooperate unreservedly in the implementation of the proposed programme and if the Security Council provides MINURSO in good time with the necessary administrative, financial and human resources.

22. Following the contacts established with the parties by my representatives last week, I am pleased to note that the Moroccan Government and the Frente POLISARIO have voiced no objections and have stated their intention to cooperate actively with MINURSO in implementing the proposals that I have presented in this report. Moreover, these proposals have been favourably received by the Algerian and Mauritanian Governments, which have assured me of their full support. In these circumstances and if these intentions are very speedily acted upon, it seems to me that it would be wise to extend the mandate of MINURSO to 30 April 1999, the closing date of the new identification phase. As regards the full deployment of MINURSO, including the deployment of additional military and police personnel, I intend to submit recommendations to the Security Council in December 1998.

23. To this end, it is essential that the renewed commitment of the parties to continue the implementation of the Settlement Plan should be swiftly confirmed in a concrete and decisive manner. With that in mind, the various texts which I have submitted to the Moroccan Government, the Frente POLISARIO and the Algerian and Mauritanian Governments for their consideration will have to be finally accepted within the next few days, including the outstanding draft status-of-forces agreements and the protocols on the identification of applicants from tribal groupings H41, H61 and J51/52 who wish to present themselves, and concerning the appeals process and preparations for the repatriation of refugees and other Saharans. I therefore expect all these documents to be initialled by the time I next travel to the region.

Annex

United Nations Mission for the Referendum in Western Sahara: contributions as at 22 October 1998

	Military observers	Staff officers	Troops	Civilian police observers	Total
Argentina	1	-	-	-	1
Austria	5	-	-	-	5*
Bangladesh	6	-	-	-	6
Canada	-	-	-	8	8
China	16	-	-	-	16
Egypt	19	-	-	2	21
El Salvador	2	-	-	-	2
France	25	-	-	-	25
Ghana	6	-	7	10	23
Greece	1	-	-	-	1
Guinea	3	-	-	-	3
Honduras	12	-	-	-	12
Ireland	8	-	-	-	8
India	-	-	-	10	10
Italy	5	-	-	-	5
Kenya	8	-	-	-	8
Malaysia	13	-	-	10	23
Nigeria	5	-	-	10	15
Norway	-	-	-	2	2
Pakistan	5	6	150	9	170
Poland	3	-	-	-	3
Portugal	4	-	-	10	14
Republic of Korea	-	-	20	-	20
Russian Federation	25	-	-	-	25
Sweden	-	1	-	10	11

	Military observers	Staff officers	Troops	Civilian police observers	Total
Uruguay	13	-	-	-	13
United States of America	15	-	-	-	15
Venezuela	3	-	-	-	3
Total	203	7	177	81	468

* In addition to the Force Commander.

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